



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1996

Ms. Barbara H. Owens
Attorney, Legal Services
Texas Department of Mental Health
and Mental Retardation
P.O. Box 12668
Austin, Texas 78711-2668

OR96-0885

Dear Ms. Owens:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39428.

The Texas Department of Mental Health and Mental Retardation (the "department") received a request for "documentation of [the requestor's] accuser" and an investigation finding related to the requestor. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Chapter 48 of the Human Resources Code sets out guidelines for the investigation of abuse, exploitation, or neglect of an elderly or disabled person. Hum. Res. Code § 48.001. Section 48.101(a) provides that a report of abuse, neglect, or exploitation, the identity of the person making the report, and all files, reports, records, communications, and working papers used or developed in an investigation under chapter 48 are confidential. The submitted documents appear to be "files, reports, records, communications, and working papers" used or developed in an investigation of alleged abuse.

However, we note that section 48.101(d) provides:

The department by rule shall provide for the release on request to a person who is the subject of a report of abuse, neglect, or exploitation or to that person's legal representative of otherwise confidential information relating to that report. The department shall edit the information before release to protect the confidentiality of information relating to the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

The department rules state that the alleged perpetrator shall be informed of the outcome of the investigation. 25 T.A.C. § 404.15(b)(3). You state that you have provided the requestor with that information. Therefore, we conclude that the remainder of the submitted information must not be disclosed under section 48.101 of the Human Resources Code as applied through section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 39428

Enclosures: Marked documents

cc: Ms. Thelma L. Flowers
(w/o enclosures)